

From: Daniel Berko [mailto:Berkolaw@sbcglobal.net]
Sent: Wednesday, May 13, 2009 4:53 PM
To: Peter J. Van Zandt
Cc: dbb@sbcglobal.net; ksmith@professionals-law.com
Subject: DOUKAS V. COUNTY OF SAN MATEO ET AL.,

Dear Peter:

We don't need your consent to dismiss the case in federal court. However, it seems like we all agree that (1) **the federal case needs to be dismissed and Plaintiff can't file again in federal court to meet Judge Scott's order** (2) her 42 USC 1983 claims will be heard in State Court since Judge Scott has agreed that she can file the Sixth Amended Complaint if she dismisses the federal case and (3) the dismissal has no effect whatsoever on the state case or claims and is not a defense to the state case. If all defendants will agree to those three conditions, I will dismiss with prejudice in the federal action. If I can't get all parties to acknowledge their agreement to the 3 conditions I will dismiss without prejudice the federal case, but I still, of course, agree that even though the dismissal is without prejudice, Plaintiff cannot ever file the claims again in federal court.

Plaintiff expressly understands and agrees that she cannot file any claim based on the events included in the Sixth Amended Complaint in federal court again. That is true whether the federal case is dismissed with or without prejudice.

If you prefer that the dismissal be filed "with prejudice" we would do that so long as you sign a stipulation acknowledging the following:

"Plaintiff's dismissal with prejudice of the case of CV 08 2336 SI (Doukas v. County of San Mateo et al.,) has no effect whatsoever on her right to pursue the claims asserted in the Sixth Amended Complaint in San Mateo Superior Court Case No. 461 009. Plaintiff's 42 U.S.C. §1983 will be heard and determined in Case No. 461 009. However, Plaintiff abandons, waives and gives up the right to file any new claim in federal court based on the allegations contained in the Sixth Amended Complaint in San Mateo Superior Court Case No. 461 009."

The attorneys below acknowledge that they have the authority of their client and do stipulate to the above on behalf of all of their respective clients.

First, can you tell me if you will sign a stipulation with the quoted language on behalf of all of your clients? Also, can you let me know if the other defendants will do so?

I am sending this by email and fax to all who will accept email and just by fax to Custer.

D Berko

Daniel Berko

From: Peter J. Van Zandt [pvanzandt@bledsoelaw.com]
Sent: Thursday, May 14, 2009 9:44 AM
To: Daniel Berko
Cc: Brian S. Whittemore
Subject: RE: DOUKAS V. COUNTY OF SAN MATEO ET AL.,

Dan- Thats probably the most efficient way to proceed.

Peter

Peter J. Van Zandt, Partner
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From: Daniel Berko [<mailto:Berkolaw@sbcglobal.net>]
Sent: Thursday, May 14, 2009 9:09 AM
To: Peter J. Van Zandt
Cc: Brian S. Whittemore
Subject: RE: DOUKAS V. COUNTY OF SAN MATEO ET AL.,

Unless the others get back to me soon I will just dismiss without prejudice obviously with the understanding that Tammy is barred from filing again in Federal Court because all claims are adjudicated in State Court.

From: Peter J. Van Zandt [<mailto:pvanzandt@bledsoelaw.com>]
Sent: Thursday, May 14, 2009 9:01 AM
To: Daniel Berko
Cc: Brian S. Whittemore
Subject: RE: DOUKAS V. COUNTY OF SAN MATEO ET AL.,

Dan- I don't speak for the rest of them. I agree with your analysis that Tammy is barred from filing again in Federal Court if all claims are adjudicated in State Court, so either way is fine with me.

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Daniel Berko

From: Peter J. Van Zandt [pvanzandt@bledsoelaw.com]
Sent: Sunday, May 17, 2009 8:44 PM
To: Daniel Berko
Subject: RE: DOUKAS

Yes, Dan. That is our agreement and understanding.

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From: Daniel Berko [mailto:Berkolaw@sbcglobal.net]
Sent: Sunday, May 17, 2009 8:10 PM
To: Peter J. Van Zandt
Subject: DOUKAS

I didn't realize you had answered the complaint in federal court. I don't need your permission to dismiss(can request from the judge) but can I represent that you have no objection to dismissal with the understanding that (1) Plaintiff can not re-file the 1983 claims again in federal court and (2) will pursue the claims in state court as permitted by Judge Scott's order allowing the 1983 claims to go forward in state court on condition that Plaintiff agree that she will dismiss the 1983 claims in federal court and cannot refile them in federal court.